

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF TARGHEE) APPEAL NO. 07-A-2517
POWDER EMPORIUM, INC. from the decision of)
the Board of Equalization of Teton County for tax) FINAL DECISION
year 2007.) AND ORDER

LAND APPEAL

THIS MATTER came on for hearing February 25, 2008 in Driggs, Idaho before Hearing Officer Travis VanLith. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Owner John N. Bach appeared for Appellant. Assessor Bonnie Beard, County Appraiser Gary Shewey and Teton County Attorney Bart Birch, and Deputy Attorney Dane Brown appeared for Respondent Teton County. This appeal is taken from a decision of the Teton County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP05N46E068400A.

The issues on appeal are the market value of the subject property (land) and whether any of the property qualifies for an exemption from property tax.

The assessment decision of the Teton County Board of Equalization is affirmed.

FINDINGS OF FACT

The subject property is a 40-acre parcel near Driggs, Idaho. The property's assessed value is \$528,000. Appellant requests the market value estimate be reduced to \$240,000.

Appellant argued subject qualified for exemption under Idaho Code § 63-602(N)(3) - irrigation water and structures - Operating property of irrigation districts or canal companies, and § 63-602(O) - Property used for generating and delivering electrical power for irrigation or drainage purposes and property used for transmitting and delivering natural gas energy for irrigation or drainage purposes.

Appellant made reference to two (2) nearby gravel pits currently in disrepair and to power lines that cross the subject land. It was argued these factors diminish subject's value. An easement across the property was also contended to diminish value.

According to Appellant, the sales presented by the County were not admissible because they were not presented at the BOE.

The County presented six (6) sales to support subject's assessed value. The prices ranged from \$11,563 to \$37,500 per acre. The subject land was assessed at \$13,200 per acre. Sales verification forms were submitted documenting the source of the sales information. Maps were also offered depicting the location of the sale properties. Respondent was aware of the nearby gravel pits and reasoned that subject's assessed value was fair, as it reflected nearly the lowest price per acre of any sales studied.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The Taxpayer claims entitlement to an exemption under Idaho Code § 63-602(N)(3), which is an exemption for irrigation water rights and certain irrigation structures.

Section 63-602(N)(3) provides in pertinent part:

Property exempt from taxation - Irrigation water and structures - Operating property of irrigation districts or canal companies. The operating property of an organization that is used to operate, maintain, or manage an irrigation project or system for the purpose of furnishing water to its landowners, members, or

shareholders, the control of which is actually vested in those entitled to use the water from such irrigation works or system for the irrigation of lands to which the water from such irrigation works or system is appurtenant, is exempt from taxation

This section applies to water districts and other such organizations that provides water to members of the organization. Appellant did not demonstrate subject is part of an organization that provides irrigation water to its members, so the exemption does not apply in this instance.

The Taxpayer also claimed relief under Idaho Code § 63-602(O), which provides:

The following property is exempt from taxation: property used for generating or delivering electrical power to the extent that such property is used for furnishing power for pumping water for irrigation or drainage purposes on lands in the State of Idaho, and property used for transmitting or delivering natural gas energy to the extent that such property is used for furnishing natural gas energy for pumping water for irrigation or drainage purposes on lands in the state of Idaho. This exemption shall accrue to the benefit of the consumer of such power, or the consumer of such natural gas energy, except in cases where the water so pumped is sold or rented to irrigate lands, in which event the property used for generating or delivering power, and property used for transmitting or delivering natural gas energy, shall be assessed for taxation to the extent that such water is so sold or rented.

This exemption is for certain property used for generating and delivering electrical power for irrigation or drainage purposes and property used for transmitting and delivering natural gas energy for irrigation or drainage purposes. Appellant mentioned there were power lines that cross subject, but he did not demonstrate ownership of the lines or show that subject's assessment included a value component for the power lines. Subject does not qualify for tax exemption under this section.

Respondent presented six (6) sales and valuation analysis to support subject's assessed value. The sale prices ranged between \$11,563 and \$37,500 per acre. Subject was

assessed \$13,200 per acre. Respondent was aware of the nearby gravel pits and power lines that cross subject and contended those factors were considered in arriving at subject's assessment. It was noted subject was assessed at nearly the lowest price per acre of any of the sales presented.

Appellant's presentation on value was largely an assertion that subject's assessed value was too high, and an argument that Respondent's sales evidence was not admissible because it was not first presented at the BOE. The Board's hearings are heard *de novo*, meaning either party may present new evidence before the Board. Idaho Code § 63-511(2) provides "The board of tax appeals may receive further evidence and will hear the appeal as provided in chapter 38, title 63, Idaho Code."

Idaho Code § 63-511(4) provides in pertinent part "[i]n any appeal taken to the board of tax appeals . . . the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous . . . [a] preponderance of evidence shall suffice to sustain the burden of proof." Appellant's value claim was not supported by competent appraisal evidence. There were no comparable sales offered in support of the value claim. The County's valuation was arrived at through consideration of comparable property sales. The assessed value appeared reasonable in relation to the available sales and associated appraisal analysis.

Appellant failed to meet the burden of proof required to overturn subject's assessed value. Accordingly, the decision of the Teton County Board of Equalization will be affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of

the Teton County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

MAILED APRIL 3, 2008